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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/994,746	11/28/2001	Hideki Yoshinaga	35.C15980	8349

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NEW YORK, NY 10112

EXAMINER

SHAPIRO, LEONID

ART UNIT	PAPER NUMBER
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2673

12

DATE MAILED: 08/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/994,746

Applicant(s)

YOSHINAGA ET AL.

Examiner

Leonid Shapiro

Art Unit

2673

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because:

In relation to independent claim 1, Applicants stated on page 14, 5-6 paragraphs of Remarks that Kunzman discloses a method of determining the brightness of each white pixel under condition that the brightness of the light source is fixed and that reference fails to disclose a maximum value of a minimum value. However, APA discloses that brightness of the light source can be modulated corresponding to the image and teaches how to define a minimum value of each pixel in one frame. Applicants cannot show non-obviousness by attacking references individually where, as here the rejections are based on combination of references. In re Keller, 208 USPQ 871 (CCPA 1981).

On page 15, 2-4 paragraphs of the Remarks Applicants stated that in some cases Cmax of Kunzman is not maximum value in a frame. However, Kunzman teaches: "The signal Cmax is defined to be maximum of any value of color" (See Col. 4, Lines 31-32).

In Remarks (page 15, last paragraph) Applicant's stated none of references suggested the setting the brightness of the light source in the white field as the maximum value multiplied by the proportion value. However, Kunzman teaches to set up the brightness of the light source in the white field during calibration as the maximum value multiplied by the proportion value (See Fig. 6, items 62, 64, 66, in description See Col. 10, Lines 2-45)..



VIJAY SHANKAR
PRIMARY EXAMINER